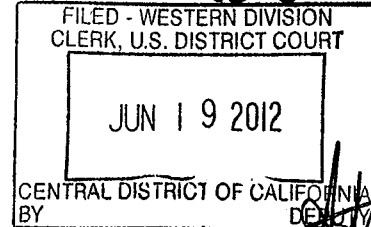
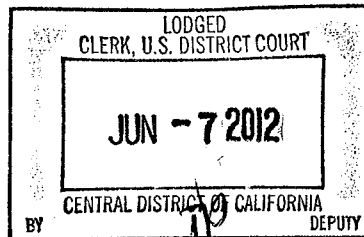


1 ALAN PHELPS  
2 Trial Attorney  
3 Consumer Protection Branch  
4 U.S. Department of Justice  
5 PO Box 386  
6 Washington, DC 20044  
7 Telephone: 202-307-6154  
8 Facsimile: 202-514-8742  
9 E-mail: alan.phelps@usdoj.gov



10 ANDRÉ BIROTTE, JR.  
11 United States Attorney  
12 Central District of California  
13 LEE WEIDMAN, AUSA  
14 Chief, Civil Division  
15 WENDY WEISS, AUSA  
16 Chief, Civil Frauds Section  
17 Central District of California  
18 California State Bar No. 181073  
19 Room 7516, Federal Building  
20 300 North Los Angeles Street  
21 Los Angeles, CA 90012  
22 Telephone: (213) 894-0444  
23 Facsimile: (213) 894-2380  
24 E-mail: wendy.weiss@usdoj.gov



25 Attorneys for Plaintiff

26 THE UNITED STATES OF AMERICA  
27  
28 IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

29 UNITED STATES OF AMERICA,  
30 Plaintiff,

31 v.

32 SPOKEO, INC.,

33 Defendant.

Case No.

CV 12-05001 MMM(SH)

34 CONSENT DECREE AND  
35 ORDER FOR CIVIL  
36 PENALTIES, INJUNCTION  
37 AND OTHER RELIEF

38 Plaintiff, the United States of America, acting upon notification and  
39 authorization to the Attorney General by the Federal Trade Commission  
40 ("FTC" or "Commission"), is concurrently filing its Complaint herein, which

Consent Decree

1 alleges that Defendant Spokeo, Inc. ("Spokeo") has engaged in violations of  
 2 the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §§ 1681-1681x, and in  
 3 unfair or deceptive acts or practices in violation of Section 5 of the Federal  
 4 Trade Commission Act ("FTC Act"), 15 U.S.C. § 45(a). Defendant has been  
 5 represented by the attorneys whose names appear hereafter. The parties have  
 6 agreed to entry of this Stipulated Final Judgment and Order for Civil Penalties,  
 7 Permanent Injunction, and Other Equitable Relief ("Order") to resolve all  
 8 matters in dispute in this action without trial or adjudication of any issue of law  
 9 or fact herein and without Defendant admitting the truth of, or liability for, any  
 10 of the matters alleged in the Complaint. Defendant has waived service of the  
 11 Summons and Complaint.

12 **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND**  
 13 **DECREEED** as follows:

14 **FINDINGS**

- 15 1. This Court has jurisdiction over the subject matter of this case and over  
 16 the Parties.
- 17 2. Venue in this district is proper under 28 U.S.C. §§ 1391(b) - (c), 28  
 18 U.S.C. § 1395(a), and 15 U.S.C. § 53(b).
- 19 3. The Complaint states claims upon which relief may be granted against  
 20 Defendant under sections 5(a), 13(b), and 16(a) of the Federal Trade  
 21 Commission Act, 15 U.S.C. §§ 45(a), 53(b), and 56(a); and under  
 22 sections 604, 607(a), 607(d), and 621 of the Fair Credit Reporting Act,  
 23 15 U.S.C. §§ 1681b, 1681e(a), 1681e(d), and 1681s.
- 24 4. Defendant makes no admissions to the allegations in the Complaint,  
 25 other than the jurisdictional facts.
- 26 5. Defendant waives: (a) all rights to seek appellate review or otherwise  
 27 challenge or contest the validity of this Order; (b) any claims Defendant  
 28 may have against the Commission, its employees, representatives, or

agents that relate to the matter stated herein; (c) all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996); and (d) any rights to attorneys' fees that may arise under said provision of law.

6. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.

7. Entry of this Order is in the public interest.

8. For the purpose of this Order:

- a. "Defendant" means Spokeo, Inc., and its successors and assigns;
- b. "Permissible purpose" shall mean the circumstances under which a consumer report may be furnished as described in Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681b;
- c. The definitions set forth in the FCRA, 15 U.S.C. §§ 1681a, *et seq.*, shall apply;
- d. "Material connection" shall mean any relationship that materially affects the weight or credibility of any endorsement and that would not be reasonably expected by consumers;
- e. "Endorsement" shall mean as defined in the Commission's Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 C.F.R. § 255.0; and
- f. "Clear and prominent" shall mean:
  - i. In textual communications (*e.g.*, printed publications or words displayed on the screen of a computer), the required disclosures are of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts with the background on which they appear;

- 1           ii.     In communications disseminated orally or through audible
- 2                 means (*e.g.*, radio or streaming audio), the required
- 3                 disclosures are delivered in a volume and cadence sufficient
- 4                 for an ordinary consumer to hear and comprehend them;
- 5           iii.    In communications disseminated through video means (*e.g.*,
- 6                 television or streaming video), the required disclosures are
- 7                 in writing in a form consistent with subparagraph (i) of this
- 8                 definition and shall appear on the screen for a duration
- 9                 sufficient for an ordinary consumer to read and comprehend
- 10                them, and in the same language as the predominant
- 11                language that is used in the communication;
- 12           iv.    In communications made through interactive media, such as
- 13                 the Internet, online services, and software, the required
- 14                 disclosures are unavoidable and presented in a form
- 15                 consistent with subparagraph (i) of this definition, in
- 16                 addition to any audio or video presentation of them; and
- 17           v.     In all instances, the required disclosures are presented in an
- 18                 understandable language and syntax, and with nothing
- 19                 contrary to, inconsistent with, or in mitigation of the
- 20                 disclosures used in any communication of them.

## **ORDER**

### **I. CIVIL PENALTY**

**IT IS ORDERED** that:

- 23           1.     Judgment in the amount of eight hundred thousand dollars (\$800,000) is
- 24                 hereby entered against Defendant, as a civil penalty for violations of the
- 25                 FCRA pursuant to section 621(a) of the Fair Credit Reporting Act, 15
- 26                 U.S.C. § 1681s(a).
- 27           2.     Defendant shall make this payment within seven (7) business days of the
- 28

1 date of service of this Order to the Treasurer of the United States by  
2 electronic fund transfer in accordance with instructions provided by the  
3 Consumer Protection Branch, Civil Division, U.S. Department of Justice,  
4 Washington, D.C. 20530, for appropriate disposition.

5 3. In the event of any default in payment, which default continues for ten  
6 (10) days beyond the due date of payment, the entire unpaid penalty,  
7 together with interest, as computed pursuant to 28 U.S.C. § 1961 from  
8 the date of default to the date of payment, shall immediately become due  
9 and payable.

10 4. Defendant relinquishes all dominion, control, and title to the funds paid  
11 to the fullest extent permitted by law. Defendant shall make no claim to  
12 or demand for return of the funds, directly or indirectly, through counsel  
13 or otherwise.

14 5. Prior to or concurrently with Defendant's execution of this Order,  
15 Defendant shall turn over the full amount of the civil penalty, eight  
16 hundred thousand dollars (\$800,000), to their attorneys, who shall hold  
17 the entire sum for no purpose other than payment to the Treasurer of the  
18 United States after entry of this Order by the Court. Within five (5) days  
19 of service of this Order, Defendant's attorneys shall transfer such civil  
20 penalty payment in the form of a wire transfer to the Treasurer of the  
21 United States. Written confirmation of the wire transfer shall be  
22 delivered in accordance with the procedures specified by the Consumer  
23 Protection Branch, Civil Division, U.S. Department of Justice,  
24 Washington, D.C. 20530.

25 6. Defendant agrees that the facts as alleged in the Complaint filed in this  
26 action shall be taken as true, without further proof, in any subsequent  
27 civil litigation filed by or on behalf of the Commission to enforce its  
28 rights to any payment or money judgment pursuant to this Order.

## II. PROHIBITED BUSINESS ACTIVITIES - FCRA

**IT IS FURTHER ORDERED** that Defendant, and all other persons or entities within the scope of Fed. R. Civ. P. 65, whether acting directly or through any sole proprietorship, partnership, limited liability company, corporation, subsidiary, branch, division, device, or other business entity who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from violating the Fair Credit Reporting Act, 15 U.S.C. §§1681-1681x, in particular:

1. Violating section 604 of the FCRA, 15 U.S.C. § 1681b, by furnishing a consumer report to any person who does not have a permissible purpose to receive the consumer report;
2. Failing to maintain reasonable procedures designed to limit the furnishing of consumer reports to users that have a permissible purpose to receive them under section 604 of the FCRA, 15 U.S.C. § 1681b, as required by Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a);
3. Failing to maintain reasonable procedures to assure the maximum possible accuracy of the information concerning the individual about whom a consumer report relates, as required by section 607(b) of the FCRA, 15 U.S.C. § 1681e(b); and
4. Failing to provide the "Notice to Users of Consumer Reports: Obligations of Users Under the FCRA" ("User Notice") required by section 607(d) of the FCRA, 15 U.S.C. § 1681e(d), to all users of Defendant's consumer reports. *Provided, however*, that Defendant may provide an electronic copy of the User Notice to a user if: (a) in the ordinary course of business, the user obtains consumer report information from Defendant in electronic form, and (b) the notice is clear and prominent.



1                   **III. PROHIBITED BUSINESS ACTIVITIES - SECTION 5**  
2                                   **(ENDORSEMENTS)**

3           **IT IS FURTHER ORDERED** that Defendant, and all other persons or  
4 entities within the scope of Fed. R. Civ. P. 65, whether acting directly or  
5 through any sole proprietorship, partnership, limited liability company,  
6 corporation, subsidiary, branch, division, device, or other business entity who  
7 receive actual notice of this Order by personal service or otherwise, are hereby  
8 permanently restrained and enjoined from:

- 9       1.     Misrepresenting, in any manner, expressly or by implication, the status  
10           of any user or endorser of a product or service, including, but not limited  
11           to, misrepresenting that the user or endorser is an independent user or  
12           ordinary consumer of the product or service; and  
13       2.     Making any representation, in any manner, expressly or by implication,  
14           about any user or endorser of such product or service unless they  
15           disclose, clearly and prominently, a material connection, when one  
16           exists, between such user or endorser and the respondent or any other  
17           individual or entity manufacturing, advertising, labeling, promoting,  
18           offering for sale, selling, or distributing such product or service.

19   Within seven (7) days of the date of service of this Order, Defendant shall take  
20 all reasonable steps to remove any product review or endorsement, currently  
21 viewable by the public, that does not comply with this Section.

22                   **IV. ORDER ACKNOWLEDGMENTS**

23       **IT IS FURTHER ORDERED** that Defendant obtain acknowledgments  
24 of receipt of this Order:

- 25       1.     Defendant, within seven (7) days of entry of this Order, must submit to  
26           the Commission an acknowledgment of receipt of this Order sworn  
27           under penalty of perjury.  
28       2.     For five (5) years after entry of this Order, Defendant must deliver a

1 copy of this Order to: (a) all principals, officers, directors, and managers;  
 2 (b) all employees, agents, and representatives who participate in conduct  
 3 related to the subject matter of the Order; and (c) any business entity  
 4 resulting from any change in structure as set forth in the Section titled  
 5 Compliance Reporting. Delivery must occur within seven (7) days of  
 6 entry of this Order for current personnel. To all others, delivery must  
 7 occur before they assume their responsibilities.

- 8 3. From each individual or entity to which Defendant delivered a copy of  
 9 this Order, Defendant must obtain, within 30 days, a signed and dated  
 10 acknowledgment of receipt of this Order.

#### 11 **V. COMPLIANCE REPORTING**

12 **IT IS FURTHER ORDERED** that Defendant make timely submissions  
 13 to the Commission:

- 14 1. One year after entry of this Order, Defendant must submit a compliance  
 15 report, sworn under penalty of perjury. Defendant must: (a) designate at  
 16 least one telephone number and an email, physical, and postal address as  
 17 points of contact, which representatives of the Commission and Plaintiff  
 18 may use to communicate with Defendant; (b) identify all of Defendant's  
 19 businesses by all of their names, telephone numbers, and physical,  
 20 postal, email, and Internet addresses; (c) describe in detail whether and  
 21 how Defendant is in compliance with each Section of this Order; and (d)  
 22 provide a copy of each Order Acknowledgment obtained pursuant to this  
 23 Order, unless previously submitted to the Commission;
- 24 2. For 20 years following entry of this Order, Defendant must submit a  
 25 compliance notice, sworn under penalty of perjury, within 14 days of any  
 26 change in the following: (a) any designated point of contact; or (b) the  
 27 structure of any entity that Defendant has any ownership interest in or  
 28 directly or indirectly controls that may affect compliance obligations



arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

3. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against Defendant within 14 days of its filing.

4. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_" and supplying the date, signatory's full name, title (if applicable), and signature.

5. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The subject line must begin: *FTC v. Spokeo, Inc.*

## VI. RECORDKEEPING

**IT IS FURTHER ORDERED** that Defendant must create certain records for 20 years after entry of the Order, and retain each such record for five (5) years. Specifically, Defendant must maintain the following records:

1. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;
2. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and

- 1 telephone numbers; job title or position; dates of service; and, if
- 2 applicable, the reason for termination;
- 3 3. Copies of all training materials that relate to the collection and sale of
- 4 consumer report information;
- 5 4. Copies of all training materials that relate to Defendant's activities as
- 6 alleged in the Complaint and Defendant's compliance with the
- 7 provisions of this Order;
- 8 5. All records and documents necessary to demonstrate full compliance
- 9 with each provision of this Order, including but not limited to, copies of
- 10 acknowledgments of receipt of this Order, required by the Sections titled
- 11 "Distribution of Order" and "Acknowledgment of Receipt of Order" and
- 12 all reports submitted to the FTC pursuant to the Section titled
- 13 "Compliance Reporting";
- 14 6. Complaints and refund requests, whether received directly or indirectly,
- 15 such as through a third party, and any response;
- 16 7. A copy of each advertisement or other marketing material;
- 17 8. If operating as a consumer reporting agency, files containing the names,
- 18 addresses, telephone numbers, and permissible purpose of all entities to
- 19 whom Spokeo supplies consumer reports and all materials considered by
- 20 Defendant to ensure compliance with section 604 of the FCRA;
- 21 9. If operating as a consumer reporting agency, files containing the names,
- 22 addresses and telephone numbers of all users of consumer report
- 23 information and the certifications made by the user pursuant to section
- 24 607(a) of the FCRA, and all materials considered by Defendant in
- 25 connection with its verification of the identity of the user and
- 26 verification of the certifications made under section 607(a), to
- 27 demonstrate Defendant's compliance with section 607(a) of the FCRA;
- 28 and

10. If operating as a consumer reporting agency, files containing the names, addresses, telephone numbers of all users of consumer report information that received the section 607(d) User Notice, and all materials considered by Defendant to demonstrate compliance with section 607(d) of the FCRA.

## VII. COMPLIANCE MONITORING

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendant's compliance with this Order, including any failure to transfer any assets as required by this Order:

1. Within 14 days of receipt of a written request from a representative of the Commission or Plaintiff, Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69, provided that, Defendant, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this Court seeking an order including one or more of the protections set forth in Rule 26(c).
2. For matters concerning this Order, the Commission and Plaintiff are authorized to communicate directly with Defendant. Defendant must permit representatives of the Commission and Plaintiff to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.
3. The Commission and Plaintiff may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated

1 with Defendant, without the necessity of identification or prior notice.  
2 Nothing in this Order limits the Commission's lawful use of compulsory  
3 process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49,  
4 57b-1.

5 **VIII. RETENTION OF JURISDICTION**

6 **IT IS FURTHER ORDERED** that this Court retains jurisdiction of this  
7 matter for purposes of construction, modification, and enforcement of this  
8 Order.

9 **IX. COSTS AND ATTORNEYS' FEES**

10 **IT IS FURTHER ORDERED** that each party shall bear its own costs  
11 and attorneys' fees incurred in connection with this action.

12 The parties hereby stipulate to the entry of the foregoing Order, which  
13 shall constitute a final Order in this action.


14 **IT IS SO ORDERED:**

15  
16 Dated this 19<sup>th</sup> day of JUNE, 2012

17 

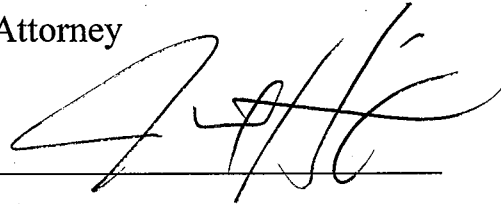
18  
19 UNITED STATES DISTRICT JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FOR THE FEDERAL TRADE COMMISSION:**

  
\_\_\_\_\_

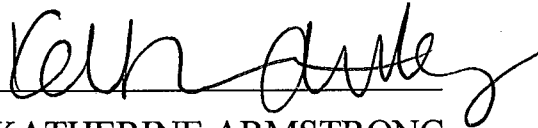
MONIQUE EINHORN

Attorney

  
\_\_\_\_\_

JAMIE HINE

Attorney

  
\_\_\_\_\_

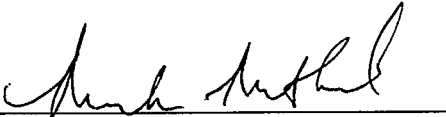
KATHERINE ARMSTRONG

Attorney

  
\_\_\_\_\_

MARK EICHORN

Assistant Director

  
\_\_\_\_\_

MANEESHA MITHAL

Associate Director

Division of Privacy and Identity Protection

Federal Trade Commission

600 Pennsylvania Avenue, NW

Washington D.C. 20580

Tel: (202) 326-2252

Fax: (202) 326-3768

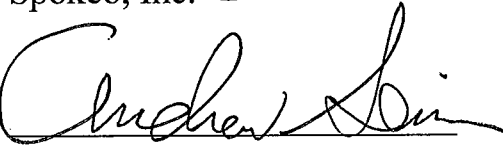
1 **FOR THE DEFENDANT:**

2 

3 \_\_\_\_\_  
4 HARRISON TANG

5 President

6 Spokeo, Inc.

7 

8 \_\_\_\_\_  
9 ANDREW SERWIN

10 ROBERT H. GRIFFITH

11 PETER F. MCLAUGHLIN

12 Attorneys

13 Foley & Lardner, LLP

14 3000 K Street, N.W., Suite 600

15 Washington, DC 20007-5109

16 Counsel for Spokeo, Inc.




1 The parties, by their counsel, hereby consent to the terms and conditions  
2 of the Order as set forth above and consent to the entry thereof.

3 FOR PLAINTIFF  
4 THE UNITED STATES OF AMERICA:

5 STUART F. DELERY  
6 Acting Assistant Attorney General,  
7 Civil Division  
8 U.S. DEPARTMENT OF JUSTICE


9 ANDRÉ BIROTTE, JR.  
10 United States Attorney  
11 Central District of California

12 LEE WEIDMAN, AUSA  
13 Chief, Civil Division

14   
15 WENDY WEISS, AUSA  
16 Chief, Civil Frauds Section  
17 Central District of California  
18 California State Bar No. 181073  
19 Room 7516, Federal Building  
20 300 North Los Angeles Street  
21 Los Angeles, CA 90012  
22 Telephone: (213) 894-0444  
23 E-mail: [wendy.weiss@usdoj.gov](mailto:wendy.weiss@usdoj.gov)

24 MAAME EWUSI-MENSAH FRIMPONG  
25 Acting Deputy Assistant Attorney General

26 MICHAEL S. BLUME  
27 Director  
28 Consumer Protection Branch

29  *by wew per telephone authorization*  
30 ALAN PHELPS  
31 Trial Attorney  
32 Consumer Protection Branch  
33 U.S. Department of Justice  
34 PO Box 386  
35 Washington, DC 20044-0386  
36 Telephone: 202-307-6154  
37 [alan.phelps@usdoj.gov](mailto:alan.phelps@usdoj.gov)